

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of:

USA vs. 20-14-05

Case No. 20-mj- 219

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (*identify the person or describe the property to be searched and give its location*):

SEE "ATTACHMENT A", which is attached to and incorporated in this Application and Affidavit

located in the District of South Dakota, there is now concealed (*identify the person or describe the property to be seized*):

SEE "ATTACHMENT B", which is attached to and incorporated in this Application and Affidavit

The basis for the search under Fed. R. Crim. P. 41(c) is (*check one or more*):

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

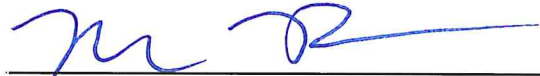
The search is related to a violation of:

Code Section
 18 U.S.C. § 2422(b)

Offense Description
 Enticement of a Minor Using the Internet

The application is based on these facts:

- ☒ Continued on the attached affidavit, which is incorporated by reference.
☐ Delayed notice of ____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.
☐ Your applicant requests that no notice be given prior to the execution of the search warrant, i.e., "no knock", the basis of which is set forth in the attached affidavit.
☐ Your applicant requests authorization to serve the search warrant any time day or night pursuant to Fed. R. Crim. P. 41(e)(2)(A)(ii), the basis of which is set forth in the attached affidavit.



Special Agent Michelle Pohlen, HSI

Printed name and title

Sworn to before me and: ☐ signed in my presence.

☒ submitted, attested to, and acknowledged by reliable electronic means.

Date: 11/05/2020



Judge's signature

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate

Printed name and title

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

IN THE MATTER OF THE SEARCH OF:

USA vs. 20-14-05

Case Number: 20-mj- 219

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A
SEARCH WARRANT**

State of South Dakota)
) ss
County of Pennington)

I, Michelle Pohlen, Special Agent with Homeland Security Investigations (HSI), and currently assigned to the Rapid City, South Dakota Resident Agent in Charge (RAC) Office, being duly sworn, states as follows:

1. I have been a Special Agent (SA) with HSI since March 2019. In 2019, I completed the Homeland Security Investigations Special Agent Training (HSISAT) and Criminal Investigator Training Program (CITP) at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. Since then, I have received specialized training in advanced child exploitation investigations and advanced victim identification. I have been working with the South Dakota Internet Crimes Against Children (ICAC) Task Force since October 2019. Prior to becoming a Special Agent, I was employed as a Federal Air Marshal with the Federal Air Marshal Service (FAMS) for two and a half years. Prior to FAMS, I served as a Police Officer with the Savannah Chatham Metropolitan Police Department (SCMPD) in Savannah, Georgia for one and a half years. I received a Bachelor of Arts degree in Law Enforcement in 2014.

2. I have investigated and assisted in the investigation of cases involving the enticement of minors using the internet in violation of federal law to include violations of United States Statutes 18 U.S.C. § 2422(b). During my law enforcement-career, I have become familiar with the *modus operandi* of persons involved in the enticement of minors using the internet. Based on my experience and training, I am knowledgeable of the various means utilized by individuals who exploit children utilizing the internet.

3. I have been informed that 18 U.S.C. § 2422(b) makes it a crime for a person to use the internet or any other means, which affects interstate commerce, to attempt to knowingly persuade, induce, entice, and coerce a person who has not attained the age of 18 years to be caused to engage in a criminal sex act.

4. I make this affidavit in support of an application for a search warrant for information associated with a certain Skout user that is stored at premises owned, maintained, controlled, or operated by Skout, a social networking company headquartered in San Francisco, California. The information to be searched is described in the following paragraphs and in Attachments A and B.

5. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Skout to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user IDs.

6. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that evidence of violations of 18

U.S.C. § 2422(b), is present in the following Skout account: User ID: 114783214; User email: xkingcodex@gmail.com; Username: "Cody." There is also probable cause to search the information described in Attachment A for evidence, contraband, or fruits of these crimes, as further described in Attachment B.

PROBABLE CAUSE

7. On August 8, 2020, at approximately 6:12 PM, via SKOUT a subject using SKOUT screen name "Cody" initiated a conversation with the reporting agent. "Cody" was later identified as 29-year-old Cody Wayne Hopkins. He is from Pennsylvania and was in Sturgis for the Bike Rally. "Cody" and HSI SA Lawrence Propes had small talk initially but later discussed what they would like to do if they were to meet up later that night. "Cody" stated, "I'll be ready next to my motorcycle. Im just hanging out. Lmk when to come and I'll be there in 30 min. Lol. You got any ideas on what you'd like to do tonight? And lmk if you need me to get a hotel room for movie night or whatever else you'd like." SA Propes responded, "Hehe you seem sexy...too be honest I'm a little young. I hope you don't mind." "Cody" replied, "No, I don't mind. We can take things at your pace. You're a very beautiful woman and just want to enjoy your company. What about I just take you out to eat somewhere? Then you can decide what happens after that."

8. SA Propes asked again, "Are you sure you don't mind that I'm a little younger I like older guys anyways." "Cody" responded, "Yeh. I don't mind (emoji with a wink and smile)." Later in the conversation, SA Propes provided a cellular telephone number to "Cody." SA Propes advised "Cody" to text "her" if he wanted.

9. Based on my training and experience, I know that individuals utilizing the application SKOUT will report individuals for policy violations, to include age, resulting in evidence being deleted and/or lost. This is why SA Propes did not include “her” age in the initial chats above.

10. Below contains a brief summary of the text communication between “HOPKINS” and SA Propes’s UC persona:

- After some initial conversation, SA Propes immediately stated, “Hey there handsome...I wanna be totally honest...im a little nervous telling you this, but im 13 almost 14. I hope youre okay with that.” “Cody” replied, “Oh? Yeh. I’m still ok with meeting you and spending time with you.”
- “Cody” asked, “will you still be able to get out though? Don’t you have to worry about your parents?” SA Propes responded, “Yeah of course, I live with my mom and she has been at Sturgis theblast few days. She checks on me at about 10 am inbthe morning for an hour. Shes been doing this for years. Honestly it kinda pisses me off. “Cody” replied, “Oh.....I’m sorry to hear that. Well, I can come over whenever you’d like then.”
- “Cody” inquired, “Have you ever dated someone my age?” SA Propes replied, “Does me being 13 years old bother you? I hope not you seem super chill and cool. I’ve never dated an older guy because my mom would probably freak out if she found out, but I did play around a couple times. They were all pretty nice to me (emoji smiling, winking, and kissing).” “Cody” stated, “No, it doesn’t bother me. As long as it stays between me and you. At least till your old enough.”
- “Cody” stated, “You let me know how far you want to go and I’ll stay in those boundaries. But I’m willing to play (emoji smiling and winking, emoji smiling and winking).” SA Propes replied, “REALLY??? You are super nice. Id like to play too but id like to know what things youd like...sorry I don’t have much experience.” “Cody” stated, “I like to go down and eat pussy. I like to tease. And when I fuck, I like to switch it up. So I like all positions. I’m also down for multiple rounds if youd like. I am a little on the bigger side tho if we do anything.” The reporting agent replied, “Will it hurt? If not that sounds like a lot of fun! Hehe. Im getting excited but a little nervous. Just please be gentle.....hehe.” “Cody” followed up with, “It might hurt a little in the very beginning but I’ll take my time. Then it’ll feel really good. Are you a virgin? I’m not monster big. Just bigger than most.”

- SA Propes stated, "Well I don't have a lot of experience...but I'd like to try things you might like. If you wanna tell me." "Cody" replied, "Ok. I like it when girl is on top sometimes, and I really like kissing. Other than kissing and letting me eat you out, those are the big two."

11. On August 8, 2020, SA Propes' undercover persona told HOPKINS to drive to the Stevens High School tennis courts in order to meet. At approximately 9:43 PM, law enforcement agents observed HOPKINS at the Stevens High School parking lot and was subsequently arrested by HSI Rapid City, SD.

12. HOPKINS was transported to HSI Rapid City for processing and interview. SA Propes and I interviewed him and he admitted that it was him chatting with the 13 year old female but claimed he was there to help her. HOPKINS later said he knew the chats were disturbing and he went too far. He admitted talking with an underage child was wrong. HOPKINS also admitted to watching "taboo" porn before traveling from Sturgis to Rapid City.

13. All Skout communications between SA Propes' undercover persona and HOPKINS were using account User ID 114783214; User email: xkingcodex@gmail.com; Username: "Cody" (SUBJECT ACCOUNT).

INFORMATION ON SKOUT

14. Based on my training and experience and what I have learned through other sources, I know the following:

- a. Skout is headquartered in San Francisco, California.
- b. Skout is a location-based social networking and dating application as well as a website. Skout utilizes the users Global

Positional System (GPS) to assist users in meeting one another via the application or website. Skout claims to not identify a user's specific location, just geographic area and users can choose to opt out of the GPS features of the app.

c. When a user searches for other users they can view profiles and the recent activities of other users.

d. Skout allows users to send each other instant messages or "virtual currency or gifts."

e. Skout is available around the world.

f. When a user sets up a profile they must enter a full name, birthdate, gender and the gender of who they are interested in meeting. Users can sign in utilizing Facebook or Google or a Skout ID and password.

g. Under the Terms of Use, Skout states that

1. users agree they are over 18 years old by utilizing the application but does not verify ages;
2. states users cannot have a felony conviction or be a registered sex offender but then states in block letters, "WE DO NOT CURRENTLY CONDUCT CRIMINAL BACKGROUND SCREENINGS ON OUR MEMBERS." The Terms of Use go on to state that Skout "reserves the right to conduct a criminal background check."

INFORMATION TO BE SEARCHED
AND THINGS TO BE SEIZED

15. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Skout to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

REQUEST/JUSTIFICATION FOR
ORDER OF NONDISCLOSURE

16. The United States respectfully applies for an order of nondisclosure to Skout under 18 U.S.C. § 2705(b) regarding the following account: User ID: 114783214; User email: xkingcodex@gmail.com; Username: "Cody." The United States is seeking this search warrant for user information, including all names, addresses, IP addresses, including historical, telephone numbers, other email addresses, information on length and types of services and any means of payment related to these accounts under the authority given by 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A). Based on § 2703(c)(3), the United States is not required to provide notice to the subscriber. Under § 2705(b), the United States may apply to the court for an order commanding Skout not to notify the subscriber of the existence of the search warrant. The court may decide what length of time shall apply to the order of nondisclosure if the court determines

the notification to the subscriber could result in one of the five factors listed in the statute, which includes destruction of or tampering with evidence. 18 U.S.C. § 2705(b)(3). The basis for the request is that such disclosure could cause any person with access to the accounts, or any related account or account information, to tamper with or modify the content or account information and thereby destroy or tamper with evidence and otherwise seriously jeopardize the investigation. Especially due to the ease of access to Skout, its content can be modified by persons with internet access and sufficient account information. As such, the United States respectfully requests this Court enter an order commanding Skout not to notify the user of the existence of this warrant.

REQUEST FOR SEALING

17. I further request that the Court order that the matter be sealed until further order of the Court. The matter is an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal the matter because premature disclosure may seriously jeopardize the ongoing investigation.

LIMIT ON SCOPE OF SEARCH

18. I submit that if during the search, agents find evidence of crimes not set forth in this affidavit, another agent or I will seek a separate warrant.

CONCLUSION

19. Based on the forgoing, I request that the Court issue the proposed search warrant.

20. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A).

21. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

Dated: 11/05/2020


MICHELLE POHLEN
Special Agent
Homeland Security Investigations

SUBSCRIBED and SWORN to
_____ in my presence
X by reliable electronic means
this 5th day of November, 2020.


DANETA WOLLMANN
U.S. MAGISTRATE JUDGE

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the following Skout user IDs that are stored at premises owned, maintained, controlled, or operated by Skout, a company headquartered in San Francisco, California:

- User ID: 114783214;
- User email: xkingcodex@gmail.com;
- Username: "Cody"

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Skout

To the extent that the information described in Attachment A is within the possession, custody, or control of Skout, including any messages, records, files, logs, or information that have been deleted but are still available to Skout, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Skout is required to disclose the following information to the government for each user ID listed in Attachment A.

A preservation letter was sent to Skout on August 31, 2020 and extended on October 28, 2020. The Skout reference number is ##2367027##:

- (a) All stored communications and other files in your possession (to include, if available, account access information, event histories including dates and times, connection dates, times and locations, connection IP information, message content, graphics files, attachments, etc., further detailed below), whether physical, stored on electronic media, or temporarily extant on any computer or server, reflecting communications to or from Skout Account:

User ID: 114783214;

User email: xkingcodex@gmail.com;

Username: “Cody”

- (b) All files that have been created and/or accessed via Skout Account:

User ID: 114783214;

User email: xkingcodex@gmail.com;

Username: "Cody"

- (c) The identifiers and all available information for any other email account(s) associated with Skout Account:

User ID: 114783214;

User email: xkingcodex@gmail.com;

Username: "Cody"

- (d) All connection logs and records of user message activity, including;
- 1) Transmitter/Sender identifier (i.e. addresses and/or IP address);
 - 2) Connection date and time;
 - 3) Method of connection (telnet, ftp, http);
 - 4) Data transfer volume;
 - 5) User name associated with the connection and other connection information, including the Internet Protocol address of the source of the connection;
 - 6) Other user accounts associated with, referenced in or accessed by Skout Account:

User ID: 114783214;

User email: xkingcodex@gmail.com;

Username: "Cody"

- 7) Address books, contact lists and associates if available;
- 8) Records of files or system attributes accessed, modified, or added by

the user.

- 9) All records and other evidence relating to the subscriber(s), customer(s), account holder(s), or other entity(ies) associated with Skout Account:

User ID: 114783214;

User email: xkingcodex@gmail.com;

Username: "Cody"

including, without limitation, subscriber names, user names, screen names or other identities, addresses, residential addresses, business addresses, and other contact information, telephone numbers or other subscriber number or identifier number, billing records, information about the length of service and the types of services the subscriber or customer utilized, and any other identifying information, whether such records or other evidence are in electronic or other form. Such records and other evidence include, without limitation, correspondence and other records of contact by any person or entity about the above-referenced account, the content associated with or relating to postings, communications and any other activities to or through the above Skout account whether such records or other evidence are in electronic or other form.

- (e) All records pertaining to communications between Skout and any person regarding the user or the user's Skout account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of 18 U.S.C. § 2422(b), enticement of a minor using the internet, from December 1, 2020, to present, including, for each user IDs identified on Attachment A.

III. Information Regarding Search Warrant Compliance by Skout:

Skout shall disclose responsive data, if any, by sending to:

Special Agent Michelle Pohlen
Michelle.A.Pohlen@ice.dhs.gov

Skout shall use the United States Postal Service or another courier service to disclose the responsive data, notwithstanding 18 U.S.C. § 2252A or similar statute or code.

**CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS
RECORDS PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11)
& (13)**

I, _____, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Skout, and my official title is _____. I am a custodian of records for Skout. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Skout, and that I am the custodian of the attached records consisting of _____ (pages/CDs/kilobytes). I further state that:

- a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;
- b. such records were kept in the ordinary course of a regularly conducted business activity of Skout; and
- c. such records were made by Skout as a regular practice.

I further state that this certification is intended to satisfy Rules 902(11) and (13) of the Federal Rules of Evidence.

Date

Signature

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of:

USA vs. 20-14-05

)
) Case No. 20-mj- 219
)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the District of South Dakota (identify the person or describe the property to be searched and give its location):

See **ATTACHMENT A**, attached hereto and incorporated by reference

I find that the affidavit, or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

Evidence of a crime in violation of 18 U.S.C. § 2422(b) as described in **ATTACHMENT B**, attached hereto and incorporated by reference.

I find that the affidavit, or any recorded testimony, establishes probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before November 19, 2020 (not to exceed 14 days)

☒ in the daytime 6:00 a.m. to 10 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Daneta Wollmann.
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30). ☐ until, the facts justifying, the later specific date of _____.

☐ I find that good cause has been established to authorize the officer executing this warrant to not provide notice prior to the execution of the search warrant, i.e., "no knock".

Date and time issued: 11/5/20 at 10:45pm

City and state: Rapid City, SD



Judge's signature

Daneta Wollmann, U.S. Magistrate

Printed name and title

cc: AUSA Sazama

Return		
Case No.: 5:20-mj-219	Date and time warrant executed:	Copy of warrant and inventory left with:
Inventory made in the presence of :		
Inventory of the property taken and name of any person(s) seized: 		
Certification		
<p>I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.</p> <p>Date: _____</p> <p style="text-align: right;">_____ <i>Executing officer's signature</i></p> <p style="text-align: right;">_____ <i>Printed name and title</i></p>		